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JS-6

Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 **ELAINE L. CHAO**,
12 Secretary of Labor,
13 United States Department of Labor,
14 Plaintiff,

15 v.

16 **Trafficanda Egg Ranches, Inc.**, a California
17 Corporation; **Paul Trafficanda**, Individually
18 and as Managing Agent of the Corporate De-
19 fendant

20 Defendants.
21

Case No. CV08-07838 JSL (SSx)

CONSENT JUDGMENT

22
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24 Plaintiff Elaine L. Chao, Secretary of Labor, United States Department of Labor
25 (“Secretary”) and defendants Trafficanda Egg Ranches, Inc., a California corporation,
26 and Paul Trafficanda, individually and as managing agent of the corporate defendant
27 (collectively, “defendants”), have agreed to resolve the matters in controversy in this
28 civil action and consent to the entry of this Consent Judgment in accordance herewith:

1 A. The Secretary has filed a Complaint alleging that Defendants violated pro-
2 visions of Sections 15(a)(2), 15(a)(4), and 15(a)(5) of the Fair Labor Standards Act of
3 1938, as amended (“FLSA”), 29 U.S.C. §§ 215(a)(2), 215(a)(4) and 215(a)(5).

4 B. Defendants have appeared and (after having been advised by Plaintiff of the
5 right to retain the assistance of defense counsel) acknowledge receipt of a copy of the
6 Secretary’s Complaint.

7 C. Defendants waive issuance and service of process and waive answer and
8 any defenses to the Secretary’s Complaint.

9 D. The Secretary and Defendants waive Findings of Fact and Conclusions of
10 Law, and agree to the entry of this Consent Judgment in settlement of this action, with-
11 out further contest.

12 E. Defendants admit that the Court has jurisdiction over the parties and subject
13 matter of this civil action and that venue lies in the Central District of California.

14 F. Defendants neither admit nor deny the allegations contained in the Secre-
15 tary’s Complaint.

16 It is therefore, upon motion of the attorneys for the Secretary, and for cause
17 shown,

18 ORDERED, ADJUDGED, AND DECREED that the Defendants, their officers,
19 agents, servants, and employees and those persons in active concert or participation with
20 them who receive actual notice of this order (by personal service or otherwise) be, and
21 they hereby are, permanently enjoined and restrained from violating the provisions of
22 Sections 15(a)(2), 15(a)(4), and 15(a)(5) of the FLSA, 29 U.S.C. §§215(a)(2), 215(a)(4)
23 and 215(a)(5), in any of the following manners:

24 1. Defendants shall not, contrary to FLSA § 7, 29 U.S.C. § 207, employ any em-
25 ployee who in any workweek is engaged in commerce, within the meaning of the FLSA,
26 or is employed in an enterprise engaged in commerce or in the production of goods for
27 commerce, within the meaning of FLSA § 3(s), for any workweek longer than 40 hours
28 unless such employee receives compensation for his or her employment in excess of 40

1 hours in such workweek at a rate not less than one and one-half times the regular rate at
2 which he or she is employed.

3 2. Defendants shall not, contrary to FLSA §§ 12(c) and 15(a)(4), 29 U.S.C. §§
4 212(c) and 215(a)(4), employ any oppressive child labor, as defined in FLSA § 3(l), in
5 commerce, within the meaning of the FLSA, or is employed in an enterprise engaged in
6 commerce or in the production of goods for commerce, within the meaning of FLSA §
7 3(s).

8 3. Defendants shall not fail to make, keep, make available to authorized agents of
9 the Secretary for inspection, transcription, and/or copying, upon their demand for such
10 access, and preserve records of employees and of the wages, hours, and other conditions
11 and practices of employment maintained, as prescribed by regulations issued, and from
12 time to time amended, pursuant to FLSA §§ 11(c) and 15(a)(5), 29 U.S.C. §§ 211(c) and
13 215(a)(5) and the implementing regulations found in Title 29, Code of Federal Regula-
14 tions, Part 516.

15 4. Defendants, jointly and severally, shall not continue to withhold the payment
16 of \$239,310.29 in overtime pay hereby found to be due under the FLSA to 36 employ-
17 ees, as a result of their employment by Defendants during the period of January 17, 2006
18 through January 19, 2008 as set forth in the attached Exhibit 1, showing the name of
19 each employee and listing on the same line the gross backwage amount due the em-
20 ployee and the period covered by the Consent Judgment.

21 5. Defendants shall pay the backwages, plus 3% annual interest on the out-
22 standing balance starting from October 1, 2008, when Defendants paid an initial pay-
23 ment of \$35,896.00, until the backwages required under this Judgment are paid in full, as
24 set forth in paragraph 6 below. The attached Exhibit 2 sets forth the date each gross
25 back wage payment must be made. As set forth in paragraph 6, below, Defendants shall
26 make payments to employees directly and shall remit amounts due for legal deductions
27 directly to the state and federal agencies when due. The total amount paid by Defen-
28 dants shall be equal to the gross backwages, plus interest, listed on Exhibit 2.

1 6. Defendants shall deliver to the Wage and Hour Division, United States De-
2 partment of Labor, 915 Wilshire Blvd. Suite 960, Los Angeles, CA, 90017, the follow-
3 ing:

4 a. On or before November 26, 2008, a schedule in duplicate bearing the firm name
5 (that is highlighted in the caption of this Judgment), employer identification number(s),
6 address, and phone number of the defendants and showing the name, last known home
7 address, social security number, gross backwage amount (as listed in the attached Ex-
8 hibit 1), the amounts of legal deductions for social security and withholding taxes
9 thereon, and the total resulting net backwage amount for each person listed in the at-
10 tached Exhibit 1. The Defendants shall pay the amounts withheld for legal deductions
11 directly to the applicable Federal or State agencies when due.

12 b. On or before November 26, 2008, and again on or before the 26th day of every
13 month thereafter until the backwage recovery provisions of this Judgment have been sat-
14 isfied in full for each person who is listed in the attached Exhibit 1, Defendants shall
15 make net payments of the backwages due to each employee directly by check made pay-
16 able to that employee. Defendants shall pay the amounts withheld for legal deductions
17 directly to the applicable Federal or State agencies when due. After monthly payment,
18 Defendants shall supply proof satisfactory to the Plaintiff that Defendants have made
19 such payments.

20 c. Within 30 days of the date of each payment due under paragraph b., above, and
21 pursuant to Exhibit 2, for each person due a payment but who was not paid by Defen-
22 dants, Defendants must supply to Plaintiff a check in the amount due to the employee
23 made payable to the order of the particular person and the Wage & Hour Division of the
24 U.S. Department of Labor, as alternative payees (for example, "Pay to the order of John
25 Doe or the Wage & Hour Div., Labor").

26 d. In the event of any default in the timely making of any payment due hereunder,
27 the full gross amount (under the backwage provisions of this Judgment) that then re-
28 mains unpaid (plus post-judgment interest, from the date of this Judgment until the full

1 amount is paid in full, at the rate of 10 percent per annum on the full balance outstanding
2 from time to time, from the date of this Judgment until this Judgment is paid in full)
3 shall become due and payable upon sending by ordinary mail a written demand to the
4 last business address of the defendants known to the plaintiff; the manner of the immedi-
5 ate payment shall in the case of the back wages be a certified or cashier's check or
6 money order with the firm name and civil action number from the caption on the first
7 page of this Judgment and "net back wages" written thereon payable to the order of the
8 "Wage & Hour Div., Labor," and shall in the case of the interest on the back wages be a
9 separate certified or cashier's check or money order with the firm name and civil action
10 number and "backwage interest" written thereon payable to the order of the "Wage &
11 Hour Div., Labor."

12 The Secretary shall allocate and distribute the remittances, or the proceeds thereof,
13 less deductions for employees' share of social security and withholding taxes to the per-
14 sons named in the attached Exhibit 1, or to their estates if that be necessary, in her sole
15 discretion, and any money not so paid within a period of three years from the date of its
16 receipt, because of an inability to locate the proper persons or because of their refusal to
17 accept it, shall be then deposited in the Treasury of the United States, as miscellaneous
18 receipts, pursuant to 29 U.S.C. § 216(c); and, it is further

19 e. On or before November 26, 2008, and again on or before the 26th day of each
20 month thereafter until the civil money penalty provisions for alleged overtime pay viola-
21 tions of this Judgment are satisfied in full, a certified or cashier's check or money order
22 with the firm name and "OT/CMP" written thereon payable to the order of "Wage &
23 Hour Div., Labor," in the amount of \$1040.45 in payment of the civil money penalty as-
24 sessed against the defendants for alleged overtime pay violations, as reflected in Exhibit
25 2. Defendants shall also make an additional OT/CMP payment of \$2,019.00, which was
26 due on October 1, 2008.

27 f. On or before November 26, 2008, a certified or cashier's check or money order
28 with the firm name and the civil action number and "CL/CMP" written thereon payable

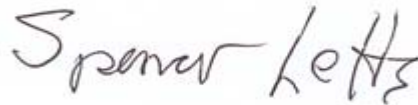
1 to the order of the "Wage & Hour Div., Labor," in the amount of \$8,992 in payment of
2 the civil money penalty assessed against the defendants for alleged child labor viola-
3 tions; and it is further

4 7. ORDERED that the filing, pursuit, and/or resolution of this proceeding with
5 the entry of this Judgment shall not act as or be asserted as a bar to any action under
6 FLSA § 16(b), 29 U.S.C. § 216(b), or as a preclusion to any defense, as to any employee
7 not named on the attached Exhibit 1 nor as to any employee named on the attached Ex-
8 hibit 1 for any period not specified therein; and, it is further

9 8. ORDERED that each party shall bear its own fees and other expenses incurred
10 by such party in connection with any stage of this proceeding, including but not limited
11 to attorneys' fees, which may be available under the Equal Access to Justice Act, as
12 amended; and, it is further

13 9. ORDERED that this Court shall retain jurisdiction of this action for purposes
14 of enforcing compliance with the terms of this Consent Judgment.

15 Dated: _Dec. 15, 2008____.

A handwritten signature in dark ink, appearing to read "Spencer Letts", is written over a light gray rectangular background.

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18 SENIOR U.S. DISTRICT COURT JUDGE
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1 For the Defendants:

2 Each defendant hereby appears, waives any
3 defense herein, consents to the entry of
4 this Judgment, and waives notice by the
5 Clerk of Court:

6 For: Trafficanda Egg Ranches, Inc.

7 By: PAUL TRAFFICANDA
8 Authorized Agent

11/18/08
Date

9 Its: President

10 Paul Trafficanda
11 Paul Trafficanda

11/18/08
Date

12 Robert Levenson
13 Robert Levenson, Esq.
14 Attorney for the Defendants

11/17/08
Date

15 For the plaintiff:

16 GREGORY F. JACOB
17 Solicitor of Labor

18 LAWRENCE BREWSTER
19 Regional Solicitor

20 Daniel J. Chasek
21 DANIEL J. CHASEK
22 Acting Associate Regional Solicitor
23 Attorneys for the Plaintiff

11/26/08
Date

24
25
26 Consent Judgment (Sol#0717908))

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Exhibit 1

<u>NAMES</u>	<u>PERIODS COVERED HEREIN</u>			<u>AMOUNTS DUE</u>
AGUILAR, Audon A	07/22/06	-	01/19/08	\$ 7,144.46
AGUILAR, Victor	04/08/06	-	01/19/08	3,550.60
AMAYA, Ronald	09/08/07	-	01/19/08	1,485.60
AMAYA, Wilfredo	04/07/07	-	01/19/08	3,890.00
ARAIZA, Saul	01/21/06	-	01/19/08	12,677.75
AVILA, Rene	10/07/06	-	01/19/08	6,409.47
BARRERA, Byron	07/22/06	-	01/19/08	3,458.40
CANALES, Jose Luis Rubio	01/06/07	-	01/19/08	4,154.16
CASTANEDA, Pablo	07/22/06	-	01/19/08	8,340.00
CASTILLO, Eduardo	07/22/06	-	01/19/08	6,015.44
CONTRERAS, Luis	09/08/07	-	01/19/08	1,228.80
DIAZ, Luis Ramon	04/07/07	-	01/19/08	3,798.40
GUTIERREZ, Humberto	09/09/06	-	01/19/08	5,517.80
JURADO, Hector	07/22/06	-	09/02/06	337.50
JUAREZ, Roberto	07/22/06	-	01/19/08	7,088.56
LEMUS, Aaron	01/06/07	-	01/19/08	5,065.13
LETRAN, Johan Jairo	07/22/06	-	01/19/08	5,454.23
LIMA, Edgar	07/22/06	-	01/19/08	8,830.09

1	LOPEZ, Orlando Raymundo	09/09/06	-	01/19/08	7,731.50
2	MARQUEZ, Juan Manuel	07/22/06	-	01/19/08	5,108.48
3					
4	MORENO, Rafael	07/22/06	-	01/19/08	11,115.95
5	NILA, Juan Carlos	07/22/06	-	01/19/08	16,381.68
6					
7	OCHOA, Herberth	07/22/06	-	01/19/08	6,322.80
8	PORTILLO, Carlos Alfredo	07/22/06	-	01/19/08	10,118.40
9					
10	RODAS, Marvin Roberto	07/22/06	-	09/02/06	357.00
11	RODRIGUEZ, Marcos	11/17/07	-	01/19/08	460.40
12	ROMERO, Edwin	07/22/06	-	01/19/08	10,531.91
13					
14	ROMERO, Kevin	12/08/07	-	12/29/07	133.60
15	ROMERO, Leonel	07/22/06	-	01/19/08	18,968.40
16					
17	ROMERO, Reynaldo	07/22/06	-	01/19/08	7,375.43
18	ROMERO, Steven	12/15/07	-	01/05/08	111.60
19					
20	SANCHEZ, Rigoberto	07/22/06	-	01/19/08	8,276.78
21	SANTANA, Jose Luis	07/22/06	-	01/19/08	15,804.08
22	VENTURA, Jose Garay	07/22/06	-	01/19/08	10,842.89
23					
24	VERGANZA, Rafael	07/22/06	-	01/19/08	8,698.00
25	ZELAYA, Alan	07/22/06	-	09/01/07	6,525.00
26					
27					
28					

Exhibit 2

Initial Payment Due 10/1/08: \$35,896.00 (BW) and \$2,019.00 (FLSA CMP)

<u>Payment Date</u>	<u>Amount Due</u>	<u>Interest Due</u>	<u>Total Due</u>
11/26/2008	\$18,262.21	\$508.54	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
12/26/2008	\$18,307.87	\$462.88	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
01/26/2009	\$18,353.64	\$417.11	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
02/26/2009	\$18,399.52	\$371.23	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
03/26/2009	\$18,445.52	\$325.23	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
04/26/2009	\$18,491.64	\$279.11	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
05/26/2009	\$18,537.87	\$232.88	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
06/26/2009	\$18,584.21	\$186.54	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
07/26/2009	\$18,630.67	\$140.08	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
08/26/2009	\$18,677.25	\$93.50	\$18,770.75 (BW)
	\$1,040.45	\$0.00	\$1,040.45 (FLSA CMP)
09/26/2009	\$18,723.89	\$46.81	\$18,770.70 (BW)
	\$1,040.50	\$0.00	\$1,040.50 (FLSA CMP)